

# LABOR NEWS

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## TWO COMPANIES IN ARKANSAS AGREE TO PAY FOR LABOR LAW VIOLATIONS

The U.S. Department of Labor announced in January 2005 that it had reached an agreement with Cingular Wireless to pay 25,351 workers employed as customer service representatives \$5.1 million in back wages as a result of alleged violations of the overtime provisions of the Fair Labor Standards Act (FLSA).

An investigation by the department's Wage and Hour Division at the Springfield, Ill. call center found that customer service representatives would begin work prior to the start of their scheduled shift and, on occasion, continued to work after their shift ended. Since the time worked off-the-clock was not recorded, the employees did not receive compensation for it. After Cingular was made aware of the alleged violations, it worked cooperatively with the department to come into compliance and compute the back wages at all of its call centers. The affected employees worked at 25 call center locations in the U.S., one being Little Rock. The company also designed and implemented a comprehensive initiative involving employee training, time reporting and compliance review procedures throughout its call center operations to ensure continued compliance with the FLSA.

The FLSA requires employers to pay for all hours of work and to pay overtime at a rate of one and one-half times the employees' regular rate of pay for hours worked after 40 in a workweek. The law also requires employers to maintain accurate payroll records.

Cingular has made no admission of liability in this case. A consent judgment agreeing to the payment of the back wages and future compliance with the overtime and record keeping requirements of the FLSA was filed January 13. The court must approve the consent decree.

In February 2005, the U.S. Department of Labor fined Wal-Mart \$135,540 in civil money penalties for violating the youth employment provisions of the Fair Labor Standards Act. The department's Wage and Hour Division found that Wal-Mart allowed teenage workers to operate hazardous equipment resulting in one teenager being injured while operating a chain saw.

Wal-Mart, the world's largest retailer with approximately 3,000 stores, is headquartered in Bentonville, Arkansas. The Wage and Hour Division Southwest Region has jurisdiction over Wal-Mart headquarters and coordinated the resolution of several investigations of stores in Connecticut, Arkansas, and New Hampshire.

The department's investigation revealed that Wal-Mart employed 85 minors aged 16 and 17 who performed prohibited activities, including loading and occasionally operating or unloading scrap paper balers, and operating fork lifts.

The FLSA prohibits the employment of minors under age 18 in any occupation determined hazardous by the Department of Labor. The

department has issued 17 specific hazardous occupation orders identifying these prohibited occupations.

While not admitting the violations, Wal-Mart cooperated with the department and guaranteed full compliance with the youth employment provisions of the FLSA in the future.

As part of the compliance agreement, Wal-Mart will:

- designate a corporate official to supervise compliance with the agreement;
- provide new and current store managers with training on child labor law compliance;
- include child labor compliance reviews in its regular internal audits, and
- post warning signs, supplied by the Labor Department, on all company-owned hazardous equipment indicating the age restriction on their use.

This compliance agreement is significant because Wal-Mart has agreed to implement these practices in all of its Wal-Mart stores and supercenters.

If you would like to arrange for training on child labor law compliance, contact our Labor Standards Division at the Arkansas Department of Labor by calling 501-682-4505.

# A QUICK GUIDE TO WORKER'S RIGHTS IN ARKANSAS – Facts Arkansas Workers Should Know



## WAGES AND HOURS WORKED:

- State and federal law requires most employers to pay their employees **minimum wage** of at least \$5.15 per hour and **overtime** pay at a rate of 1 ½ times the employee's regular rate of pay for hours actually worked in excess of 40 hours per week. Arkansas workers employed in businesses having four or more employees but grossing less than \$500,000 per year are covered under state law. Schools, daycares, nursing homes, hospitals and government agencies, as well as other employers grossing more than \$500,000 per year must follow federal minimum wage and overtime laws. Tipped employees covered by state law may be paid a cash wage of \$2.58 per hour, and tipped employees covered by federal law may be paid a cash wage of \$2.13 per hour, however, their tips combined with the cash wage can be no less than \$5.15 per hour.

- Most employees are covered by the provisions stated above. Specific sections of both state and federal law, however, exempt certain employees from these provisions. If you have a question concerning exemptions,

you may contact the appropriate wage and hour office.

- Workers who are fired by a corporation must be paid their last paycheck within seven days of being fired. In all other cases, payment must be made at the regularly scheduled payday.

- If an employer owes an unpaid last paycheck of less than \$1000 to a worker, the worker may file a wage claim with the Arkansas Department of Labor. This is also true for independent contractors. If they are owed more than \$1,000, but less than \$3000, workers may file suit in Small Claims Court without an attorney.

- Employers may **NOT** charge workers for medical tests or drug screens that they require them to take.

- Employers may **NOT** require employees to have their checks direct deposited into a bank account. The worker has the right to refuse to use direct deposit. He may do so by giving the employer a written and signed letter that says the worker does not want direct deposit.

- Holiday pay, shift differentials, vacation pay or sick leave are not required to be offered to workers under Arkansas law.

However, the federal Family and Medical Leave Act requires some employers to offer unpaid leave for serious medical conditions of the employee or member of their immediate family. To see if you qualify for this leave, contact the United States Department of Labor at 501-324-5292.

- Neither state nor federal law requires an employer to provide a break or a meal period. Breaks of less than 20 minutes are considered work time, and the employer must pay covered employees for those breaks.

## BENEFITS:

- Employers having three or more employees should have workers' compensation coverage in case of injury in the workplace.

Workers wanting to make a claim for on-the-job injuries should contact the Arkansas Workers' Compensation Commission at 501-682-3930.

- Workers who are laid off or terminated may be able to collect unemployment benefits. To file for unemployment benefits, workers should contact the Employment Security Department local office for assistance.

- Employers are not required to provide group health insurance or retirement benefits. If these benefits are provided, however, the employer must follow federal and state laws. For more information or assistance, you may contact the U. S. Department of Labor, Employee Benefits Security Administration toll-free at: 1-866-444-EBSA (3272).

## DISCRIMINATION:

- State and federal law both make it illegal to treat employees differently because of age, sex, race, religion, national origin, or disability. Rights under the Arkansas Civil Rights Act are enforced by private lawsuit and workers who have been discriminated against should see a private attorney. Rights under the federal Civil Rights Act are enforced by the Equal Employment Opportunity Commission. That number is 501-324-5060.

- Pregnant workers are also protected from discrimination by law. For information on this law or to file a complaint, contact the Equal Employment Opportunity Commission at 501-324-5060.

- Workers cannot be denied a job because they are a member or are not a member of a labor union. Workers who feel they have been denied a job because of their union membership or non-membership, should contact an attorney for assistance.

For more information, call our Labor Standards Division, 501-682-4505 or e-mail [www.asklabor@arkansas.gov](mailto:www.asklabor@arkansas.gov).



## IN THE WORKS

✉ Asian workers of both sexes earned more than their white, black, and Hispanic or Latino counterparts in 2003, although the differences among women were smaller than those among men. Asian women's median weekly earnings (\$598) were 5 percent higher than white women's earnings (\$567), 22 percent greater than black women's earnings (\$491), and 46 percent higher than the earnings of Hispanic or Latino women (\$410). In comparison, Asian men's earnings (\$772) were 8 percent higher than the earnings of white men (\$715), 39 percent greater than the earnings of black men (\$555), and 66 percent higher than those of Hispanic or Latino men (\$464).

✉ Among occupational groups, education, training, and library occupations and protective service workers had the highest unionization rates in 2004 at 37.6 and 37.3 percent, respectively. Construction and extraction occupations; installation, maintenance, and repair occupations; transportation and material moving occupations; community and social services occupations; and production occupations also had higher-than-average rates. In 2004 the average union membership rate for all occupations was 12.5 percent.

✉ About 64.5 million persons, or 28.8 percent of the civilian noninstitutional population age 16 and over, volunteered through or for organizations at least once from September 2003-September 2004. The main organization – the organization for which the volunteer worked the most hours during the year – was most frequently either religious (34.4 percent of all volunteers) or educational/youth service related (27.0 percent).

## HIGH-PAYING OCCUPATIONS WITH MANY OPENINGS, PROJECTED 2002-12

The U.S. Department of Labor Bureau of Labor Statistics projects the jobs below to have high earnings, many openings, and low unemployment over the 2002-12 decade. The median earnings listed, indicate that half of the workers in an occupation made more than that amount, and half made less.

| OCCUPATIONS   | Annual average job openings due to growth & net replacement needs, projected 2002-12 | Median annual earnings, 2002 |
|---|--|------------------------------|
| Registered nurses-  | 110,119  | \$48,090                     |
| Postsecondary teachers-   | 95,980   | 49,090                       |
| General and operations managers-  | 76,245   | 68,210                       |
| Sales representatives, wholesale and manufacturing, exc. technical /scientific prod.- | 66,239   | 42,730                       |
| Truck drivers, heavy and tractor-trailer-   | 62,517   | 33,210                       |
| Elementary school teachers, exc. special ed.-   | 54,701   | 41,780                       |
| First-line supervisors or managers of retail sales workers-                           | 48,645   | 29,700                       |
| Secondary school teachers, exc. special and vocational education-                     | 45,761   | 43,950                       |
| General maintenance and repair workers-   | 44,978   | 29,370                       |
| Exec. secretaries and administrative assistants-                                      | 42,444   | 33,410                       |
| First-line supervisors or managers of office and administrative support workers-      | 40,909   | 38,820                       |
| Accountants and auditors-   | 40,465   | 47,000                       |
| Carpenters-   | 31,917   | 34,190                       |
| Automotive service technicians and mechanics-   | 31,887   | 30,590                       |
| Police and sheriff's patrol officers-   | 31,290   | 42,270                       |
| Licensed practical & licensed vocational nurses-                                      | 29,480   | 31,440                       |
| Electricians-   | 28,485   | 41,390                       |
| Management analysts-  | 25,470   | 60,340                       |
| Computer systems analysts-  | 23,735   | 62,890                       |
| Special education teachers-   | 23,297   | 43,450                       |

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## NEW YOUTH EMPLOYMENT RULES GO INTO EFFECT

**T**he U.S. Department of Labor has made changes to youth employment rules that became effective February 14. The new rules expand protections for youth working in restaurant cooking, roofing and driving, among other changes.

The rules incorporate into the regulations the provisions of two statutory amendments to the Fair

Labor Standards Act that deal with driving and the operation of compactors and balers by teenage employees. The first statutory change established criteria permitting 16- and 17-year-olds to load, but not operate or unload, certain waste-material baling and compacting equipment. The second statutory change delineated what limited on-the-job driving may be performed by qualified 17-year-olds.

Provisions are also included to modernize the youth employment provisions regarding what types of cooking 14- and 15-year-olds are permitted to perform. The new rules now permit those minors to clean and maintain cooking devices in some situations.

The rules also expand the current prohibition against youth under age 18 working in roofing occupations to encompass all work *on or about a roof*, including work performed upon or in close proximity to a roof. Under the new

provisions, youth may only perform such work if in an apprenticeship or student-learner program.

The U.S. Department of Labor's website features several compliance assistance tools including one entitled **elaws FLSA Child Labor Rules Advisor**. The **elaws Advisor** is a comprehensive, plain language source for information about Fair Labor Standards Act (FLSA) rules that apply to young workers, including wage payment issues, the hours youth can work and the jobs they can and cannot perform. To access the advisor, visit <http://www.dol.gov/elaws/esa/flsa/cl>.

Other assistance is available at the **YouthRules!** Web site at [www.youthrules.dol.gov](http://www.youthrules.dol.gov) or its Wage and Hour Division website at [www.wagehour.dol.gov](http://www.wagehour.dol.gov). For additional information, you may call the Arkansas Department of Labor's office at 501-682-4505.